

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SOUTHWESTERN BELL  
MOBILE SYSTEMS, LLC,  
Plaintiff  
Counterclaim Defendant

v.

CHRISTOPHER P. KUHN,  
Defendant  
Counterclaim Plaintiff

C.A. No.: 04-CV-11584-PBS

PRE-TRIAL DISCLOSURES OF  
CHRISTOPHER P. KUHN

Pursuant to Fed.R.Civ.P. 26 (a)(3) and Local Rule 16.5(C), the defendant / counterclaim plaintiff Christopher P. Kuhn provides the following information regarding the evidence that he may present at trial other than solely for impeachment purposes:

**Trial Witnesses.** Pursuant to Fed. R. Civ. P. 26(a)(3)(A), Kuhn expects to present testimony from the following witnesses:

1. Christopher Kuhn. It is anticipated that Mr. Kuhn will testify as to negotiations in entering into the lease, payments made under the lease, change of address notices sent to Cingular, its predecessors or successors, and efforts made by him to obtain delinquent payments.
2. Paul Ehrlich, Cingular. It is anticipated that Mr. Ehrlich will testify as to negotiations of the lease and in particular the inclusion of the 4% annual increase on rent payments.

Mr. Kuhn reserves that right to identify further witnesses which may become known during the course of investigation or discovery and to present testimony from other witnesses for impeachment purposes, for rebuttal purposes and for purposes that cannot be reasonably anticipated at this time.

Deposition Testimony. Pursuant to Fed. R. Civ. P. 26(a)(3)(B), Mr. Kuhn is expected to present testimony by means of deposition from the following persons: the parties if necessary, other individuals as the need arises.

**Exhibits.** Pursuant to Fed. R. Civ. P. 26 (a)(3)(C), Mr. Kuhn expects to offer the following documents as exhibits at trial:

1. Lease dated March 8, 1996
2. Notice of Lease dated March 8, 1996

3. May 19, 2004 Letter from Garnick & Scudder, P.C. to Cingular Wireless with return receipts (2)
4. June 23, 2004 letter from Garnick & Scudder, P.C. to Cingular Wireless with return receipt
5. July 1, 2004 Cingular letter to Christopher P. Kuhn and Garnick & Scudder P.C.
6. Cingular Wireless Check stub dated July 1, 2004
7. July 16, 2004 Nixon Peabody letter to Gerald S. Garnick, Esq.
8. Originals or photocopies of checks and check stubs:
  - January 23, 2004 (marked "void") with envelope
  - February 23, 2004 (2) with envelopes
  - March 19, 2004 (marked "void") with envelope
  - March 23, 2004 with envelope
  - March 23, 2004 (marked "void") with envelope
  - April 23, 2004 original with envelope
  - April 23, 2004 photocopy marked "void" with envelope
  - May 19, 2004 original with envelope
  - May 19, 2004 photocopy marked "void" with envelope
  - June 23, 2004 original with envelope
  - June 23, 2004 photocopy marked "void" with envelope
  - July 2, 2004
  - July 23, 2004 (3)
9. April 5, 2001 Cingular letter to Kuhn
10. April 15, 2003 Kuhn letter to Cingular with return receipts
11. Subleases for each tenant on the tower.

Mr. Kuhn reserves the right to identify further documents which may become known during the course of investigation or discovery and to offer additional documents for impeachment purposes, for rebuttal purposes and for purposes that cannot be reasonably anticipated at this time.

**Damage Categorization:** Under Count IV of the Counterclaim, Mr. Kuhn has sustained damages to date in the amount of \$3,863.50 and such damages continue to increase and accrue.

The defendant / counterclaim plaintiff  
By his attorney

/s/ Lois M. Farmer  
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Lois M. Farmer, BBO# 552142  
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Date November 18, 2004